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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 DAVID HOUGH, et al.,

10 Plaintiffs,

11 v.

12
13 RYAN CARROLL, et al.,

14 Defendants.
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Case No.: 2:24-cv-02886-WLH-SKx

ORDER RE PLAINTIFFS' *EX*
***PARTE* MOTION FOR**
CONTINUANCE [52]

16 On May 15, 2024, Plaintiffs filed an unopposed *Ex Parte* Motion for
17 Continuance Regarding Defendants' Motion to Dismiss and Motion to Compel
18 Arbitration. (Mot., Docket No. 52). Defendants' Motion to Dismiss and Motion to
19 Compel Arbitration are scheduled to be heard on June 7, 2024. Based on that hearing
20 date, Plaintiffs' oppositions to Defendants' Motions are due May 17, 2024. Plaintiffs
21 state, however, that they plan to file an amended complaint by May 20, 2024, in which
22 they will propose a putative class to include representative plaintiffs whose claims are
23 not arbitrable. (*Id.* at 1–2). Plaintiffs informed the Court of their intention to amend
24 the complaint at the last hearing before the Court on May 13, 2024.

25 First, the Court notes that *ex parte* applications are solely for extraordinary relief
26 and should be used with discretion. *See Mission Power Eng'g Co. v. Cont'l Cas. Co.*,
27 883 F. Supp. 488 (C.D. Cal. 1995). A continuance of hearing dates is rarely an
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1 emergency; this Motion could and should have been brought sooner. Nevertheless, the
2 Court recognizes that while Defendants did not file an opposition to this motion, they
3 also would not agree to stipulate to the continuance. (Mot. at 4). Any neglect by
4 Plaintiffs' counsel is excusable, then, because Plaintiffs' counsel relied on professional
5 norms of courtesy, from which Defendants' counsel departed by refusing to stipulate
6 to the continuance.

7 Further, the Court finds good cause to grant the requested continuance. The
8 amended class complaint may moot Defendants' Motion to Dismiss. *See Pettaway v.*
9 *Nat'l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020). Moreover,
10 Defendants may wish to respond to Plaintiffs' new allegations regarding ineffectual
11 arbitration clauses in an amended motion to compel arbitration. A continuance will
12 allow Defendants time to determine whether they would like to respond to the new
13 allegations, or whether they wish to proceed with their currently-filed Motion to
14 Compel Arbitration.

15 The Court therefore **GRANTS** the Motion and **ORDERS** as follows:

- 16 1. The hearing on Defendants' Motion to Compel Arbitration [39] and Motion
17 to Dismiss [40] is continued from June 7, 2024, to June 28, 2024; and
18 2. If Defendants wish to file a new motion to compel and/or motion to dismiss,
19 they must follow the schedule set forth in the Local Rules. That is, so long
20 as the new motions are filed and served on or before May 31, 2024, the
21 hearing will remain scheduled for June 28, 2024. If the new motions are filed
22 after that, Defendants must pick a new hearing date no earlier than 28 days
23 after the filing date, and the June 28, 2024, hearing date will be vacated.

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25 **IT IS SO ORDERED.**

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27 Date: May 17, 2024


HON. WESLEY L. HSU
UNITED STATES DISTRICT JUDGE